

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X

JANE DOE,

Plaintiff,

COMPLAINT

-against-

SALANTER AKIBA RIVERDALE ACADEMY,

Index No. _____

Defendant.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, JANE DOE, by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

Introduction

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when she was a minor, was sexually assaulted by Stanley Rosenfeld (hereafter “ROSENFELD”), a former teacher and administrator at Salanter Akiba Riverdale Academy (“SAR”).

Parties, Jurisdiction and Venue

1. Plaintiff JANE DOE is a citizen and resident of the State of Georgia. Plaintiff brings this Complaint using a pseudonym because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, Salanter Akiba Riverdale Academy, (hereafter, "SAR"), is a private Modern Orthodox Jewish day school in the Bronx, NY. SAR is a corporation conducting business in the State of New York.

3. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

4. Personal jurisdiction lies over Defendant as it is present and domiciled in the State of New York.

5. Venue of this action lies in Bronx County as a substantial part of the events or omissions giving rise to the claim occurred in Bronx County.

Statement of Facts

6. Rosenfeld was a teacher and administrator employed by Defendant SAR beginning in approximately 1974.

7. At all relevant times, JANE DOE was a female student attending SAR.

8. Rosenfeld sexually assaulted JANE DOE on multiple occasions from approximately 1976-1977, when she was approximately 11-12 years old.

9. Rosenfeld forcibly and repeatedly sexually abused Plaintiff without her consent. The acts of sexual abuse included the groping of JANE DOE's breasts as well as Rosenfeld rubbing his erect penis against JANE DOE's body. Additionally, on one occasions, Rosenfeld exposed his penis and masturbated in front of Jane Doe

10. Prior to the sexual assault of Plaintiff, SAR was aware that Rosenfeld was sexually inappropriate with students.

11. Upon information and belief, Rosenfeld would have students sleep over his apartment for Shabbat. Rabbi Sheldon Schwartz, a faculty member of SAR, would be present at Rosenfeld's home when the sexual abuse of students would occur.

12. Additionally, two students reported to Rabbi Schwartz that they were sexually abused by Rosenfeld. Another student reported to Rabbi Schwartz he woke up to find that Rosenfeld was touching his genitals while sleeping at Rosenfeld's home for an overnight Shabbat. Rabbi Schwartz responded to this allegation by telling the student that he must have dreamt the encounter, insisting that the student was not actually sexually abused by Rosenfeld.

13. Additionally, Rosenfeld's sexual misconduct became known to SAR Principal Rabbi Sheldon Chwat when a former faculty member reported to him that she observed Rosenfeld touch a boy's groin area in an office within the school.

14. Rosenfeld was employed at Ramaz Primary School and Westchester Day School prior to his period of employment at S.A.R. Rosenfeld was accused of sexually molesting children at each of these schools. Upon information and belief, S.A.R. failed to conduct an adequate employment background check for Rosenfeld's previous employers. Had such a search been conducted, S.A.R. would have discovered Rosenfeld's extensive history of childhood sexual abuse.

15. Despite receiving credible allegations against Rosenfeld of sexual assault, SAR acted to conceal these allegations in an effort to avoid scandal and accountability. Furthermore, SAR rehired Rosenfeld in the 1980's despite the fact that they previously received multiple accusations that he committed childhood sexual abuse.

16. SAR failed to report any of the allegations of sexual abuse committed by Rosenfeld to the appropriate authorities, in violation of N.Y. Soc. Serv. Law §§ 413 and 420.

17. SAR took no action against Rosenfeld in response to the allegations that he was sexually inappropriate with students.

18. When Plaintiff disclosed to SAR that she was sexually abused by Rosenfeld, SAR stated that she falsely accusing Rosenfeld, and required her to attend therapy in order to remain a student at the school.

19. In approximately 2002, Rosenfeld pled no contest to Second Degree Child Molestation in Rhode Island. During the course of his prosecution, Rosenfeld admitted to sexually abusing hundreds of children over a period of decades.

Nature of Conduct Alleged

20. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

21. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Rosenfeld, to retain Rosenfeld as a teacher and administrator of SAR with unfettered access to children.

COUNT I
NEGLIGENCE

22. Plaintiff JANE DOE repeats and realleges Paragraphs 1 through 21 above.
23. At all material times, SAR and Plaintiff were in a special relationship of school - student in which SAR owed Plaintiff a duty of reasonable care.
24. At all material times, SAR and Rosenfeld were in a special relationship of employer - employee, in which SAR owed a duty to control the acts and conduct Rosenfeld to prevent foreseeable harm.
25. SAR owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while she was under the care, custody or in the presence of SAR and Rosenfeld. SAR's duties encompassed the hiring, retention and supervision of Rosenfeld and otherwise providing a safe environment for Plaintiff.
26. At all material times, SAR owed Plaintiff as a minor at its school a duty to exercise the level of care that a parent of ordinary prudence would observe under the circumstances.
27. SAR breached these duties by failing to protect the minor JANE DOE from sexual assault and lewd and lascivious acts committed by an agent and employee of SAR.
28. SAR breached its duties by (i) at all relevant times, retaining and failing to adequately supervise Rosenfeld; (ii) failing to conduct an adequate background check of Rosenfeld prior to his hiring; (iii) employing and retaining Rosenfeld as a teacher and administrator without making any warning or notice of his perverse sexual proclivities to the students who would have contact with Rosenfeld and their parents; and (iv) failing to report Rosenfeld's prior acts of sexual abuse to the appropriate authorities.
29. At all relevant times, SAR knew or in the exercise of reasonable care should have

known that Rosenfeld had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual assault of his students.

30. At all relevant times, it was reasonably foreseeable to SAR that Rosenfeld would commit acts of child sexual abuse or assault on underage students.

31. At all relevant times, SAR knew or should have known that Rosenfeld was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

32. With such actual or constructive knowledge, SAR provided Rosenfeld unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

33. At all relevant times, SAR created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

34. At all relevant times, SAR had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

35. As a direct and proximate result of SAR's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

36. SAR's acts and conduct shows a reckless or willful disregard for the safety and well-being of JANE DOE

WHEREFORE, Plaintiff demands judgment against SAR for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

COUNT II
VIOLATION OF N.Y. SOC. SERV. LAW §§ 413 and 420

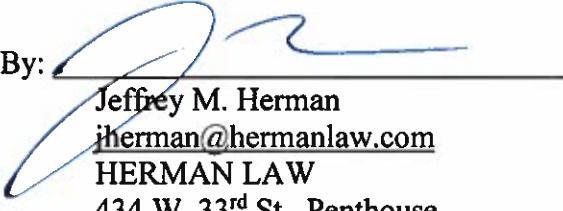
37. Plaintiff JANE DOE repeats and realleges Paragraphs 1 through 21 above.
38. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendant had a statutory duty to report reasonable suspicion of abuse of children in its care.
39. Defendant breached that duty by knowingly and willfully failing to report their reasonable suspicions of Rosenfeld's abuse of children in its care.
40. As a direct and indirect result of this conduct, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

WHEREFORE, Plaintiff demands judgment against SAR for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: New York, New York
October 3, 2019

By: 

Jeffrey M. Herman
jherman@hermanlaw.com
HERMAN LAW
434 W. 33rd St., Penthouse
New York, NY 10001
Tel: 212-390-0100